

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CLEMON ALLISON,
Plaintiff,

vs.

UNIVERSITY OF TEXAS MEDICAL
BRANCH AT GALVESTON,
Defendant.

§
§
§
§
§
§
§

CASE NO. 4:21-cv-1410

DEFENDANT'S NOTICE OF REMOVAL

NOW COMES Defendant, The University of Texas Medical Branch at Galveston ("UTMB"), and respectfully shows that:

1. **Removal Provision:** This removal is based on claims arising under federal law, pursuant to 28 U.S.C. § 1441(a). Plaintiff Clemon Allison asserts federal claims under Title VII of the Civil Rights Act of 1964, Americans With Disabilities Act of 1990 ("ADA"), 42 U.S.C. §12101 *et seq.*, the Americans With Disabilities Act Amendments Act of 2008 ("ADAAA"), and the Family Medical Leave Act ("FMLA"), 29 U.S.C. Ch. 28. *See* Plaintiff's Original Petition, at 3-4.

2. **State Action:** This action was initially filed in the 295th Judicial District Court of Harris County, Texas, on March 25, 2021, in Cause No. 202117637. Plaintiff is Clemon Allison. Defendant is UTMB. Defendant UTMB has been served with this lawsuit. Defendant UTMB filed its Answer and Affirmative Defenses in state court on April 26, 2021. Venue is proper in the United States District Court for the Southern District of Texas.

3. **Nature of the Lawsuit:** Plaintiff pleaded various discrimination and retaliation claims stemming from an alleged race, disability, and leave violation of Title VII, the ADA, FMLA, and Chapter 21 of the Texas Labor Code, the Texas Commission on Human Rights Act ("TCHRA"). Plaintiff alleges that his former employer, UTMB, (1) discriminated against him by failing to

accommodate his alleged disability; (2) discriminated against him because of his race by paying a higher salary to his white colleague; (3) retaliated against him by transferring him to the central Galveston location of UTMB after he filed a complaint regarding his salary; (4) retaliated against him by assigning him meaningless tasks amounting to a demotion; (5) retaliated against him by issuing him a warning letter for failure to carry out tasks in a timely manner before going out on FMLA leave; (6) retaliated against him immediately after he returned from FMLA; and (7) retaliated against him by discharging him from employment after he filed a charge of discrimination with the Equal Employment Opportunity Commission. *See* Plaintiff's Original Petition.

4. **Jury Demand:** Plaintiff did not request a trial by jury in his Original Petition.

5. **Removal Requirements of 28 U.S.C. § 1441:** This action is a civil action raising a federal question of which this Court has original jurisdiction under 28 U.S.C. § 1331, and is one which may be removed to this Court by Defendant UTMB, pursuant to the provisions of 28 U.S.C. § 1441(a).

6. **Compliance with Deadline:** Defendant UTMB was served with the Original Petition on March 30, 2021. Defendant UTMB files this notice of removal within the 30-day time required by 28 U.S.C. § 1446(b). *See Bd. of Regents of Univ. of Tex. Sys. v. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5th Cir. 2007). Therefore, this removal is timely. Defendant UTMB filed its Answer and Affirmative Defenses in state court on April 26, 2021

7. **Venue:** Venue upon removal is proper in the United States District Court for the Southern District of Texas because the state court where the suit has been pending is located within this District. *See* 28 U.S.C. § 1441(a).

8. **State Court Pleadings:** Defendant UTMB is filing concurrently with this notice, as required by Local Rules and 28 U.S.C. § 1446(a), a true and correct copy of all process and pleadings served upon Defendant UTMB in this state court action.

9. **Notice:** Defendants will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending. *See* 28 U.S.C. § 1446(d).

CONCLUSION

ACCORDINGLY, Defendant The University of Texas Medical Branch at Galveston prays that this cause be removed to the United States District Court for the Southern District of Texas, pursuant to 28 U.S.C. § 1441(a).

Respectfully submitted,

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

GRANT DORFMAN
Deputy First Assistant Attorney General

SHAWN COWLES
Deputy Attorney General for Civil Litigation

THOMAS A. ALBRIGHT
Chief - General Litigation Division

/s/ Summer R. Lee

SUMMER R. LEE

Texas Bar No. 24046283
Southern District. 1840348
Assistant Attorney General
General Litigation Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
(512) 475-4031
FAX: (512) 320-0667

summer.lee@oag.texas.gov

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served through CM/ECF filing, on this the 29th day of April, 2021, upon the following individuals:

Craig R. Keener
kcrkeener@aol.com
Attorney for Plaintiff

/s/ Summer R. Lee
SUMMER R. LEE
Assistant Attorney General